



METROPOLITAN
TRANSPORTATION
COMMISSION

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Alameda County

January 21, 2010

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San Mateo County

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and Urban Development

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U.S. Department of Transportation

Federal D. Glover
Contra Costa County

Anne W. Halsted
San Francisco Bay Conservation
and Development Commission

Steve Kinsey
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Sue Lempert
Cities of San Mateo County

Jake Mackenzie
Sonoma County and Cities

Jon Rubin
San Francisco Mayor's Appointee

Bijan Sartipi
State Business, Transportation
and Housing Agency

James P. Sperring
Solano County and Cities

Amy Rein Worth
Cities of Contra Costa County

Ken Yeager
Santa Clara County

Steve Heminger
Executive Director

Ann Flemer
Deputy Executive Director, Operations

Andrew B. Fremier
Deputy Executive Director,
Bay Area Toll Authority

Therese W. McMillan
Deputy Executive Director, Policy

**Solicitation of Proposals
For General Counsel Executive Recruitment Services**

Dear Executive Recruitment Firm:

The Metropolitan Transportation Commission (MTC) is soliciting proposals from firms to provide executive recruitment and consultation services to fill the position of **General Counsel**.


The scope of work is detailed in *Appendix A* of this Solicitation of Proposals (SOP). Any addenda to this SOP that may be issued by MTC will be posted at <http://www.mtc.ca.gov/jobs/>; it is the proposer's responsibility to check for addenda to this SOP and comply with new or revised requirements that may be stated therein.

If you are interested in providing a proposal based on the attached Scope of Work (*Appendix A*), please submit a proposal based on the attached Proposal Form (*Appendix B*), along with a signed Levine Act Statement (*Appendix C*) and **mail, e-mail, fax, or deliver** to the attention of the MTC Project Manager, Robin James, at the address below no later than **4:00 p.m., Wednesday, January 27, 2010**. **Proposals received after this time and date will not be considered.**

A Recruiter will be selected based on the following evaluation criteria, listed in descending order of importance: experience and qualifications (including recent General Counsel recruitments), recruitment strategy, ability to meet MTC's recruitment schedule, and price. The selected Firm will be issued a Purchase Order (PO), the terms of which are included in *Appendix D*. MTC's selection dispute procedure is attached at *Appendix E*.

If you have any further questions, please contact the MTC Project Manager, Robin James at (510) 817-5740. Proposal forms should be delivered, mailed or e-mailed to MTC, 101 Eighth Street, Oakland, CA 94607-4700, <rjames@mtc.ca.gov> or faxed to (510) 817-5848.

Sincerely,



Steve Heminger
Executive Director

Attachments

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APPENDIX A

SCOPE OF WORK

Agency Background

Created by the California Legislature in 1970 (California Government Code § 66500 *et seq.*), the Metropolitan Transportation Commission (MTC or the Commission) is the transportation planning, coordinating and financing agency for the nine-county San Francisco Bay Area. The Commission's work is guided by a 19-member policy board. Fourteen commissioners are appointed directly by local elected officials (each of the five most populous counties has two representatives, with the board of supervisors selecting one representative, and the mayors of the cities within that county appointing another; the four remaining counties appoint one commissioner to represent both the cities and the board of supervisors). In addition, two members represent regional agencies — the Association of Bay Area Governments and the Bay Conservation and Development Commission. Finally, three nonvoting members have been appointed to represent federal and state transportation agencies and the federal housing department.

MTC functions as both the regional transportation planning agency — a state designation — and, for federal purposes, as the region's metropolitan planning organization (MPO). Its responsibilities include, but are not limited to: development and adoption of a Regional Transportation Plan, inclusive of the Bay Area's mass transit, highway, local streets and roads, airport, seaport, rail, bicycle and pedestrian services and facilities; allocation and monitoring of state and federal transportation assistance funds; legislative and advocacy roles for smart growth, air quality and congestion management, transportation services for elderly, disabled and low-income individuals.

Since 1998, MTC has served as the Bay Area Toll Authority (BATA) responsible for administering all toll revenue from the seven state-owned bridges. BATA has an "AA" credit rating and plans to issue over \$2 billion in toll revenue bonds to finance bridge, highway, and transit construction projects over the next several years. MTC also functions as the region's Service Authority for Freeways and Expressways (SAFE) and operates a fleet of 80 tow trucks and 2,600 roadside call boxes to assist motorists. In addition, MTC manages the TransLink® universal fare card program for public transit and the 511 traveler information telephone number and web site. *Below are links to the MTC website which includes information about the agency, the Commission and key staff, and the 2008 annual report as further description of MTC's responsibilities:*

www.mtc.ca.gov and http://www.mtc.ca.gov/library/AnnualReport-08/MTC_AR_2008.pdf

MTC has a staff of 170 full time employees and 30 contract/temporary staff headed by an Executive Director, 2 Deputy Executive Directors, a General Counsel, a Deputy General Counsel, a Chief Financial Officer, and 7 Section Directors.

General Counsel Position

The General Counsel is appointed by and reports directly to the MTC Commission and serves as the chief advisor on all legal matters and litigation. Work is performed within statutory

parameters and in accordance with policies determined by the MTC Commission. The General Counsel provides the full range of legal services to the Commission and its staff; attends meetings of the Commission; represents the Commission on all legal matters, including defending the agency, its public officials and its employees in litigation, and managing outside providers of legal services; and selects, directs and supervises the Deputy General Counsel, a staff attorney, and one legal assistant. The current General Counsel is retiring after serving MTC for over 30 years. He has the distinction of being the only general counsel in MTC's history.

MTC Commission Interview Panel

On behalf of the MTC Commission, the Recruiter will work with a five (5) person Interview Panel consisting of the MTC Commission Chair and Vice-Chair, one additional Commissioner, the MTC Executive Director and an outside attorney who is familiar with the work of the Commission. The MTC Human Resources Manager will provide staff support services, as required. The firm is expected to maintain the confidentiality of the recruitment and selection process until a final offer is confirmed by the MTC Commission at their April 28, 2010 meeting.

The Recruiter's proposal should include a plan to provide services to assist the Commission with filling the General Counsel position. Recruitment services will include, but are not limited, to:

1. Developing a recruitment strategy to attract a diverse pool of qualified applicants;
2. Finalizing the position description, salary range, and recruiting brochure/materials;
3. Proactively networking to market the recruitment;
4. Objectively assessing the qualifications and suitability of the applicants;
5. Arranging and conducting the interview process;
6. Checking the references and background information for top candidates;
7. Recommending finalists; and
8. Negotiating a final offer with the selected finalist.

Firms may propose additional services as appropriate.

Schedule, Budget and Method of Payment:

It is expected that the selected Recruiter will be issued a purchase order to begin work on Monday, February 1, 2010 and that the MTC Commission Interview Panel will submit a recommendation of a candidate to the full MTC Commission for approval at their April 28, 2010 meeting.

The total budget for this project is not to exceed \$25,000. Payment for services shall be made on a fixed-price basis. *MTC will assume the cost for advertising services and for travel reimbursement for potential candidates, as determined by MTC. These costs, and any other costs for which MTC would be responsible, must be clearly stated in the price proposal.*

Evaluation Criteria

Proposals will be evaluated by MTC based on the following criteria, listed in order of relative importance: experience and qualifications (including recent General Counsel recruitments), recruitment strategy, ability to meet MTC's recruitment schedule, and price.

APPENDIX B

PROPOSAL FORM

At a minimum, the proposal must include the following information:

I.	<u>Transmittal Letter:</u> A letter identifying the project name (“General Counsel Executive Recruitment Services”), signed by an official authorized to solicit business and enter into contracts for the firm. The transmittal letter should include the name and telephone number of a contact person if different from the signator and a statement that the proposal is a firm commitment to perform the work specified in <i>Appendix A</i> in accordance with this SOP.
II.	<u>Experience and Qualifications:</u> Describe in detail your experience in providing the type of services described in <i>Appendix A</i> . Also include company information and resumes of the key staff to be assigned to this project.
III.	<u>Recruitment Strategy and Schedule:</u> Submit information that fully describes the proposed recruitment strategy and schedule to meet the proposed deadline of final recommendation by the Interview Panel to the MTC Commission at their April 28, 2010 meeting. The Recruiter should also identify additional information needed from MTC about the position and the Agency’s operations, functions and staff responsibilities.
IV.	<u>General Counsel Recruitments:</u> Provide a listing of recruitments for General Counsel, City Attorney or similar recruitments for executive-level legal counsel recruitments that your firm has completed within the last three (3) years for other public/government agencies. Include agency, position, incumbent name, and date of appointment.
V.	<u>Price Proposal:</u> All prices shall be firm-fixed lump-sum prices including labor, materials, equipment, profit, taxes, and all other applicable surcharges for services as described in <i>Appendix A</i> , Scope of Work. Clearly distinguish costs included in price proposal versus costs assumed to be covered separately by MTC.

APPENDIX C
CALIFORNIA LEVINE ACT STATEMENT

California Government Code § 84308, commonly referred to as the "Levine Act," precludes an officer of a local government agency from participating in the award of a contract if he or she receives any political contributions totaling more than \$250 in the 12 months preceding the pendency of the contract award, and for three months following the final decision, from the person or company awarded the contract. This prohibition applies to contributions to the officer, or received by the officer on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

MTC's commissioners include:

Chris Daly
Tom Azumbrado
Tom Bates
Bob Blanchard
Dave Cortese
Dean J. Chu

Bill Dodd
Dorene M. Giacomini
Federal D. Glover
Scott Haggerty
Anne W. Halsted
Steve Kinsey
Sue Lempert

Jon Rubin
Bijan Sartipi
James P. Spering
Adrienne J. Tissier
Amy Rein Worth
Ken Yeager

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any MTC commissioner in the 12 months preceding the date of the issuance of this request for qualifications?

___ YES ___ NO

If yes, please identify the commissioner: _____

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than \$250 to any MTC commissioners in the three months following the award of the contract?

___ YES ___ NO

If yes, please identify the commissioner: _____

Answering yes to either of the two questions above does not preclude MTC from awarding a contract to your firm. It does, however, preclude the identified commissioner(s) from participating in the contract award process for this contract.

DATE

(SIGNATURE OF AUTHORIZED OFFICIAL)

(TYPE OR WRITE APPROPRIATE NAME, TITLE)

(TYPE OR WRITE NAME OF COMPANY)

APPENDIX D

General Conditions for Purchase Orders

1. DEFINITIONS

- a. MTC. Includes the Metropolitan Transportation Commission, the Metropolitan Transportation Commission Service Authority for Freeways and Expressways, or the Bay Area Toll Authority.
- b. Supplier. The individual, firm, partnership, corporation or combination thereof to whom a Purchase Order is mailed or otherwise furnished by MTC.
- c. Contract. The legal agreement between MTC and the Supplier, which includes the terms of any written solicitation of Bids or Proposals and any deviation from the written specifications expressly accepted by MTC; the Supplier's bid, proposal, or offer; and all terms and conditions set forth in or attached to this Purchase Order. In the event of a conflict between one or more provisions of the Contract, the more specific or stringent provision with respect to Supplier's performance of the work shall apply.

2. ACCEPTANCE OF OFFER

This purchase order constitutes MTC's acceptance of Supplier's offer and becomes a binding contract, as defined above, when it is signed by MTC and mailed to Supplier. No revisions to or assignments of this order shall be valid unless in writing and signed by an authorized representative of MTC.

3. PERFORMANCE OF WORK

Supplier shall accomplish all the work and furnish all materials necessary for the completion of the work in a good, workmanlike and thorough manner and to the satisfaction of MTC, in accordance with the Contract.

4. CONTRACT PRICE

The firm fixed price(s) or other maximum payment set out in this purchase order, which includes full compensation to Supplier for performing all work required by the Contract, including all applicable federal, state and local taxes.

5. VARIATION IN QUANTITY, QUALITY OR PERFORMANCE

Any variation in the quantity, quality or performance of any item or service called for by this order shall be grounds for termination by default by MTC, as provided in 8a, unless approved by MTC in writing.

6. PACKAGING AND CRATING

All items shall be packed by Supplier in suitable containers for protection in shipment and storage. Prices set forth in this order include all charges for Supplier's packing, crating and marking for transportation to f.o.b. point.

7. INSPECTION AND ACCEPTANCE

Inspection and acceptance will be at destination, unless otherwise provided. Until delivery and acceptance, and after any rejections, risk of loss will be on the Supplier.

8. TERMINATION

- a. If Supplier fails to comply with any of the provisions of the Contract, or in the event Supplier becomes the subject of a proceeding under state or federal law for relief of creditors, or if Supplier makes an assignment for the benefit of creditors, MTC shall have the right to hold Supplier in default and cancel this order in whole or in part. In each event, MTC may obtain the items covered by the cancelled order from another Supplier and, if Supplier was selected as a result of a competitive procurement process, Supplier shall reimburse MTC for the excess cost to MTC, if any.
- b. Without affecting its right to cancel this order under paragraph (a) above, MTC may terminate this order in whole or in part prior to shipment of goods or provision of services at no cost by providing written notice to the Supplier. In such event, MTC shall reimburse Supplier for non-recoverable costs incurred to date, not to exceed the Contract Price.

9. SCHEDULE

Unless otherwise agreed, material commitments and production arrangements should not be made by Supplier in excess of the amount or in advance of the time necessary to meet the specified delivery schedule. Time is of the essence in filling this order, and it is Supplier's responsibility to comply with MTC's delivery directions and/or schedule. Failure to deliver any item or provide any service called for by the contract within the time called for shall be grounds for termination for default as provided in 8.a.

10. INDEMNIFICATION

Supplier shall indemnify and hold harmless MTC and its commissioners, directors, officers, agents, and employees from and against all claims, demands, suits, loss, damage, injury and liability (including any and all costs and expenses incurred in connection therewith) incurred by reason of any negligent or otherwise wrongful act or omission of Supplier in connection with Supplier's performance of the Contract, including delivery of materials or equipment to MTC at the time and point of delivery indicated when delivery is an obligation of Supplier under the Contract.

11. INDEPENDENT CONTRACTOR

Supplier is an independent contractor and not an employee or agent of MTC.

12. PAYMENT

Supplier shall submit an invoice to MTC within thirty days after completion of work, unless otherwise specified in purchase order. MTC will pay invoices no later than thirty (30) days after their receipt conditioned upon approval of work done and amount billed. Invoices shall be made in writing and delivered or mailed to MTC as follows: Accounting Section, MTC, Joseph P. Bort MetroCenter, 101 Eighth Street, Oakland, CA 94607-4700

13. INSURANCE

Consultant agrees to obtain and maintain at its own expense the following types of insurance for the duration of the Agreement: (1) Workers' Compensation Insurance, as required by law, and Employers' Liability Insurance in an amount no less than \$1,000,000; (2) Commercial General Liability Insurance, with a combined single limit of not less than \$1,000,000 bodily injury and property damage, a combined single limit of not less than \$1,000,000 for personal injury and advertising injury for any one occurrence, and \$2,000,000 general aggregate; and (3) Owned, Non-Owned and Hired Automobile Liability Insurance in an amount no less than \$1,000,000. The policy(ies) covering Commercial General Liability will contain an endorsement to include MTC, its Commissioners, officers, representatives, agents and employees as additional insureds. Also, the endorsement must specify that such insurance is primary and that no MTC insurance will be called on to contribute to a loss. The issuing company must also provide a 30-day written notice to MTC prior to cancellation of the required coverages. Certificates of insurance verifying the coverages and the required endorsements and signed by an authorized representative of the insurer must be delivered to MTC prior to issuance of any payment under the Agreement by MTC.

APPENDIX E

SOP PROTEST PROCEDURE

A proposer may object to a provision of the SOP on the grounds that it is arbitrary, biased, or unduly restrictive, or to the selection of a particular consultant on the grounds that MTC procedures, the provisions of the SOP or applicable provisions of federal, state or local law have been violated or inaccurately or inappropriately applied by submitting to the Project Manager a written explanation of the basis for the protest:

1. No later than three (3) working days prior to the date proposals are due, for objections to SOP provisions; or
2. No later than three (3) working days after the date on which the proposer is notified that contract award has been authorized to another proposer, for objections to vendor selection.

The MTC Section Director responsible for the procurement will respond to the protest in writing, based on the recommendation of a staff review officer. Authorization to award a contract to a particular Contractor shall be deemed conditional until the expiration of the protest period or, if a protest is filed, the issuance of a written response to the protest by the MTC Section Director.

Should the Proposer wish to appeal the decision of the MTC Section Director it may file a written appeal with the MTC Executive Director, no later than three (3) working days after receipt of the written response from the MTC Section Director. The Executive Director's decision will be the final agency decision.